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15  
**IN THE UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

16 Reyna Dempsey, individually, on behalf of  
 17 others similarly situated, and on behalf of the  
 18 general public,

19 Plaintiff,

20 v.

21 United Healthcare Services, Inc., and DOES  
 22 1 through 10, inclusive,

23 Defendants.

**Case No. 5:24-cv-00425-EKL (VKD)**

**JOINT CASE MANAGEMENT  
STATEMENT**

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1        **1.        Jurisdiction and Service**

2            The Court has federal question subject matter jurisdiction over Plaintiff's Affordable Care  
3        Act claim, which arises under 42 U.S.C. § 18116.

4            The parties agree that venue is proper in this Court and that the Court has personal  
5        jurisdiction over all Defendants. All parties have been served.

6        **2.        Facts**

7            ***a. Plaintiff's Statement:***

8            Plaintiff Reyna Dempsey, an individual in a non-heterosexual relationship, who, at all  
9        times relevant, was enrolled in United HealthCare Services, Inc.'s ("United") health insurance  
10      policy. In 2020, Plaintiff Dempsey and her wife began preparing to start a family. But they soon  
11      discovered that, in order to qualify for covered fertility benefits, Plaintiff Dempsey had to  
12      undergo one year of invasive and expensive Therapeutic Donor Insemination procedures.  
13      Meanwhile, individuals in a heterosexual relationship could merely self-report having unprotected  
14      sex for one year to qualify for fertility benefits. Plaintiff Dempsey believes United's policy was  
15      discriminatory towards individuals in a non-heterosexual relationship.

16            To qualify for fertility benefits under United's policy, Plaintiff Dempsey underwent eight  
17      cycles of IUI over the course of 16 months, from April 5, 2021, to August 24, 2022. These IUI  
18      treatments cost Plaintiff approximately \$2,700 *per cycle* and caused her emotional distress.  
19      United finally began to cover her fertility benefits in November 2022 based on a year-old  
20      diagnosis of ovarian dysfunction, and Plaintiff became pregnant in March 2023. Plaintiff  
21      Dempsey believes that similarly-situated individuals in a non-heterosexual relationship who were  
22      attempting to conceive were also subjected to United's discriminatory policies and practices.

23            Government Employees Insurance Company ("GEICO"), as Plaintiff Dempsey's  
24      employer, was initially included as a Defendant in this matter. A settlement between GEICO and  
25      Plaintiff Dempsey has since been reached.

1                   **b. Defendant United's Statement:**

2                   As alleged in the First Amended Complaint (SAC), this is a putative class action lawsuit  
 3 originally brought against Defendants GEICO and United HealthCare Services, Inc. ("United").  
 4 United was the claims administrator of GEICO's plan.

5                   The crux of Plaintiff's theory of liability is that the fertility treatment coverage policy in  
 6 GEICO's employee health plan (the "Plan") discriminates against individuals in "non-heterosexual  
 7 relationships" because these individuals are purportedly unable to meet the Plan's definition of  
 8 "infertility" without undergoing preliminary fertility treatments at their own expense. The principal  
 9 factual issues, which the parties dispute, include, but are not limited to: (1) whether United  
 10 intentionally discriminated against Plaintiff and/or the putative class; (2) whether the alleged  
 11 conduct caused any loss to Plaintiff and/or the putative class; and (3) whether Plaintiff and/or the  
 12 putative class was actually damaged by the conduct complained of in the SAC, and the measure of  
 13 any damages.

14                   **3. Legal Issues**15                   **a. Plaintiff's statement**

16                   Plaintiff alleges that United's health insurance policy discriminates on the basis of sex  
 17 against individuals in non-heterosexual relationships in violation of the Affordable Care Act, 42  
 18 U.S.C. § 18116.

19                   Following the Court's order on United's Motion to Dismiss which held that Plaintiff  
 20 Dempsey plausibly alleged that United Health's insurance policy facially discriminates on the  
 21 basis of sex with respect to covered fertility service, legal issues include, but are not limited to:

- 22                   a. Whether a class or classes should be certified under Rule 23 of the Federal Rules of Civil  
 23 Procedure;
- 24                   b. Whether Plaintiff and members of the Class are members of a protected class;
- 25                   c. Whether discovery confirms that United's health insurance policy was facially  
 26 discriminatory as to Plaintiff Dempsey and members of the Class by imposing additional  
 27 conditions on them before they could secure fertility benefits;

- 1       d. Whether United's health insurance policy had a disparate impact on Plaintiff Dempsey
- 2            and members of the Class by imposing additional conditions on them before they could
- 3            secure fertility benefits;
- 4       e. Whether the Affordable Care Act prohibits discrimination based on sex;
- 5       f. Whether the United qualifies as a health program or activity subject to Section 1557 of the
- 6            ACA; and
- 7       g. Whether the United receives federal financial assistance.

8           **b. Defendant United's Statement:**

9           United contends that there is no legal basis for Plaintiff's claim, and identifies the following  
10 legal issues in dispute at this time:

- 11       a. Whether United intentionally discriminated against Plaintiff in violation of Section 1557 of
- 12            the Affordable Care Act;
- 13       b. Whether Plaintiff can maintain claims against United to the extent she has made been whole
- 14            by reaching a resolution with Defendant GEICO;
- 15       c. Whether a class should be certified under Rule 23 of the Federal Rules of Civil Procedure.

16       **4. Motions**

17           **a. Plaintiff's Statement:**

18           Plaintiff filed her First Amended Complaint on June 6, 2024. (Dkt. 42). United filed its  
19 Motion to Dismiss her FAC on June 27, 2024. (Dkts. 46). Plaintiff filed her Opposition to  
20 Defendant's Motion to Dismiss on August 15, 2024. (Dkt. 52). United filed its Reply Brief on  
21 October 3, 2024. The Motion to Dismiss was heard on December 4, 2024 at 10:00 a.m. On March  
22 4, 2025, the Honorable Judge Lee denied United's Motion to Dismiss, ruling that Plaintiff  
23 Dempsey plausibly alleged that United Health's insurance policy facially discriminates on the  
24 basis of sex with respect to covered fertility service. (Dkt. 72). On March 4, 2025, Plaintiff filed  
25 her Second Amended Class Action Complaint for Damages and Restitution ("SAC"). (Dkt. 74).  
26 On March 25, 2025, United filed its answer to Plaintiff's SAC. (Dkt. 77).

27           Plaintiff intends to move for class certification. The Scheduling Order sets Plaintiff's  
28 deadline to file that motion for September 12. However, in light of the August 26 mediation and

1 the Parties' ongoing meet and confer efforts regarding discovery, Plaintiffs request an extension  
 2 of that deadline to December 12, 2025. Plaintiff may move for partial summary judgment.

3 The parties have been engaging in written discovery. As of the filing of this Case  
 4 Management Statement, there has been no need for discovery-related motion practice but such  
 5 need may arise in the future.

6 ***b. Defendant United's Statement***

7 United will oppose class certification and may file a motion for summary judgment.

8 United agrees to an extension of Plaintiff's deadline to move for class certification to  
 9 December 12, 2025.

10 **5. Amendment of Pleadings**

11 ***a. Plaintiff's Statement:***

12 Plaintiff filed her FAC on June 6, 2024. Following this Court's order on United's Motion  
 13 to Dismiss, Plaintiff filed her SAC on March 4, 2025.

14 ***b. Defendant United's Statement:***

15 The deadline to amend pleadings in this litigation has passed, and United maintains that  
 16 any further amendments require leave of Court.

17 **6. Evidence Preservation**

18 Counsel for the parties have reviewed the Guidelines Relating to the Discovery of  
 19 Electronically Stored Information ("ESI"). The parties have also met and conferred pursuant to  
 20 FRCP 26(f) regarding reasonable and proportionate steps taken to preserve relevant evidence.

21 Specifically, at the Rule 26(f) conference, counsel for the parties discussed the  
 22 preservation of data and other ESI. Potentially relevant ESI includes, but is not limited to,  
 23 information related to Plaintiff's and putative class members' requests for fertility benefits,  
 24 United's responses to those requests, and communication regarding approvals or denials of  
 25 requests for benefits. United maintains that information in a database. Counsel for the parties will  
 26 continue to meet and confer regarding the scope of relevant ESI as necessary.

27 **7. Disclosures**

1                   The Parties exchanged initial disclosures on March 25, 2025.

2           **8. Discovery**

3            **a. *Plaintiff's Statement:***

4           On March 7, 2025, Plaintiff served her first set of written discovery (Special  
5           Interrogatories and Requests for Production of Documents) on United, which focused on policy  
6           and procedure documents, as well as class certification discovery, including data to determine the  
7           size and scope of the putative classes. Since then, the parties have engaged in ongoing meet and  
8           confer efforts related to this first set of written discovery.

9           On July 2, 2025, Plaintiff served her second set of written discovery (Special  
10          Interrogatories and Requests for Production of Documents). Plaintiff will engage in meet and  
11          confer efforts should United's responses of Plaintiff's second set prove deficient.

12          On July 11, 2025, Plaintiff disclosed her class certification expert witness as required by  
13          the Scheduling Order.

14          Plaintiff intends to continue moving forward with discovery in the most efficient and  
15          expeditious way possible to ensure that the case remains on track.

16           **b. *Defendant United's Statement:***

17          The parties have been engaged in good faith meet and confer efforts regarding United's  
18          objections to Plaintiff's first set of Requests for Production and Interrogatories. United has also  
19          begun producing documents to Plaintiff in response to Plaintiff's discovery requests. To date,  
20          United has produced over 4,500 pages of documents. United currently expects to serve its  
21          responses and objections to Plaintiff's second set of Requests for Production and Interrogatories on  
22          August 1, 2025.

23          United served its first set of Requests for Production and Interrogatories on Plaintiff on June  
24          18, 2025. By agreement of the parties, Plaintiff's deadline to respond to this discovery is August  
25          8, 2025.

26          United expects to pursue additional discovery into Plaintiff's claims, including written  
27          discovery and a deposition of Plaintiff. United may also seek third-party discovery from Plaintiff's  
28          providers and members of the putative class.

1 Pursuant to the Court's Scheduling Order, ECF 76, United intends to identify any experts it  
 2 intends to use to oppose class certification by August 8, 2025.

3 **9. Class Actions**

4 **a. *Plaintiff's Statement:***

5 Plaintiff anticipates moving for class certification . Plaintiff asserts her claims against  
 6 United are on behalf of the following Class:

7 All individuals in non-heterosexual relationships who were enrolled in a United medical  
 8 plan wherein the eligibility criteria for Infertility Services are the same or substantially similar to  
 9 the requirements in the GEICO Corporation Medical, Dental and Vision Care Plan in the United  
 10 States at any point from four years prior to this action's filing date through the date of trial, who  
 11 sought fertility benefits under their applicable health insurance plan.

12 Plaintiff alleges that more than 40 members of these classes have been affected by  
 13 United's policies, which Plaintiff challenges here. The common legal issues include, but are not  
 14 limited to, the issues outlined above. Common factual issues include, but are not limited to, the  
 15 parameters of United's health care benefits plan and the effects that plan had on class members.  
 16 Plaintiff is typical of class members and adequate to represent the class because she suffered the  
 17 harm alleged to be suffered by other class members and she has no conflicts with other class  
 18 members. Plaintiff's counsel are adequate because they are well-versed in class action and  
 19 discrimination litigation.

20 Plaintiff alleges that class treatment is appropriate under Fed. R. Civ. P. 23(b)(3) because  
 21 questions of law or fact common to class members predominate over any questions affecting only  
 22 individual members. Moreover, a class action is superior to individual litigation because common  
 23 questions may be resolved efficiently for the entire class. Putative class members do not have an  
 24 interest in individually controlling the litigation and, as far as Plaintiff is aware there is no  
 25 pending litigation concerning the matters in this complaint.

26 All attorneys of record for Plaintiff and United have reviewed the Procedural Guidance for  
 27 Class Action Settlements.

1                   **b. Defendant United's Statement:**2                   United will oppose class certification because Plaintiff cannot support her request to  
3 proceed on a class basis under Federal Rule 23.4                   **10. Related Cases**

5                   Neither Plaintiff nor Defendants are aware of any related cases.

6                   **11. Relief**7                   **a. Plaintiff's Statement:**8                   Plaintiff seeks that the Court certify this as a class action as to the proposed class, with  
9 Plaintiff as the Class Representative and Plaintiffs' Counsel as Class Counsel. Plaintiff also seeks  
10 compensatory damages individually and as to the class, and costs and reasonable attorneys' fees.  
11 Plaintiff seeks interest and penalties as provided by law, and any other relief as this Court deems  
12 equitable and appropriate.13                   **b. Defendant United's Statement:**14                   United maintains that the proposed class should not be certified, and neither the Plaintiff  
15 nor the putative class are entitled to any of the relief requested in Plaintiff's SAC, or any relief at  
16 all. United further seeks the complete dismissal of Plaintiff's SAC and asserts that judgment be  
17 entered in United's favor.18                   **12. Settlement and ADR**19                   On August 26, 2025, Plaintiff Dempsey and United will participate in private mediation  
20 before the Honorable Diane M. Welsh (Ret.).21                   **13. Other References**

22                   The parties do not currently believe that any other references are appropriate.

23                   **14. Narrowing of Issues**24                   The parties have not identified any areas for narrowing issues since Defendant's Motion to  
25 Dismiss.26                   **15. Scheduling**27                   On March 5, 2025, this Court adopted the parties' briefing schedule for class certification.  
28 Since that time, the parties have engaged in meet-and-confer discussions regarding Plaintiff's

1 written discovery requests. Plaintiff has also served a second set of written discovery. United has  
 2 served an initial set of written discovery on Plaintiff as well. Plaintiff has disclosed her expert for  
 3 class certification. And the Parties have set a date for mediation and engaged in discussions to  
 4 prepare for that mediation.

5 In light of the upcoming mediation and ongoing discovery efforts, the Parties jointly  
 6 propose the following, modified briefing schedule for Plaintiff's Motion for Class Certification:

<b>Description</b>	<b>Deadline</b>
Deadline to file motion for class certification	December 12, 2025
Deadline to file opposition to class certification	January 23, 2026
Deadline to file reply in support of class certification	February 24, 2026
Class certification hearing and case management conference	<b><i>Court to Select</i></b>

12 The Parties believe the remainder of the schedule can remain unchanged, with the  
 13 exception of the Close of Fact Discovery. That deadline is currently set for May 29, 2016. The  
 14 parties request that date be continued to **August 28, 2026**.

15 **16. Trial**

16 **a. Plaintiff's Statement:**

17 Trial will be by jury. Plaintiff expects a 2-4 week trial.

18 **b. Defendant United's Statement:**

19 It remains to be seen whether Plaintiff's ACA claim will proceed on a class basis and  
 20 whether it will survive a potential motion for summary judgment. As such, United currently cannot  
 21 estimate a length of trial. United also does not concede that trial will be by jury.

22 **17. Disclosures of Non-Party-Interested Entities or Persons**

23 **a. Plaintiff's Statement:**

24 Plaintiff filed a Certification of Conflicts and Interested Entities or Persons (ECF No. 3).  
 25 Plaintiff again certifies that Plaintiff is unaware of any interested parties or entities to report.

26 **b. Defendant United's Statement:**

27 United filed its Certificate of Conflicts and Interested Entities on April 25, 2024 (Dkt. 28).

## **18. Professional Conduct**

All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

## **19. Other Matters**

a. *Plaintiff's Statement:*

Plaintiff is currently unaware of other matters at this time. Any junior attorneys assigned to work on this matter will be given the opportunity to attend and prepare for CMCs, draft key motions, take witness depositions, and participate extensively in trial.

**b. *Defendant United's Statement:***

United is unaware of other matters at this time.

Dated: July 23, 2025

Respectfully submitted,

## NICHOLS KASTER, LLP

Dated: July 23, 2025

Atorneys for Plaintiff Rev

Respectfully submitted,

Attnorneys for Plaintiff Reyna Dempsey  
Respectfully submitted,

## **GIBSON, DUNN & CRUTCHER LLP**

By: s/ Lauren Blas  
Lauren Blas

## Launch Bias

Attorneys for Defendants United Healthcare Services, Inc.

1 **ATTORNEY ATTESTATION**

2 Pursuant to Civil Local Rule 5-1(i)(3), I, Matthew Helland , hereby attest that concurrence  
3 in the filing of this document has been obtained from counsel for Defendant United Healthcare  
4 Services, Inc.

5  
6 Dated: July 23, 2025

NICHOLS KASTER, LLP

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8 By: /s/ Matthew Helland

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